

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
DISH Network Corporation Petition for)	WT Docket No. 13-225
Waiver of Sections 27.5(j) and 27.53(h)(2)(ii))	
and Request for Extension of Time)	
)	

COMMENTS OF AT&T

September 30, 2013

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COMMENTS OF AT&T

AT&T Services, Inc. respectfully submits these comments on behalf of itself and its affiliates (collectively, “AT&T”) in response to the Public Notice dated September 13, 2013 issued by the Commission’s Wireless Telecommunications Bureau (“Bureau”) in the above-captioned proceeding.¹

I. Introduction

The *Notice* seeks comment on a DISH Network Corporation Petition for Waiver of Sections 27.5(j) and 27.53(h)(2)(ii) and Request for Extension of Time (“DISH Request”).² DISH seeks waiver of certain technical rules for the 2 GHz band at 2000-2020 MHz (the “lower AWS-4 block”) to permit operational flexibility to use the lower AWS-4 block, 2000-2020 MHz, currently designated as an uplink band, for either uplink or downlink operations.³ In addition, DISH seeks a one-year extension of the current seven-year final build-out requirement for each of its AWS-4 licenses.⁴ For the following reasons, the Commission should grant the relief sought.

¹ *In the Matter of DISH Network Corporation Petition for Waiver of Sections 27.5(j) and 27.53(h)(2)(ii) and Request for Extension of Time*, Public Notice, WT Docket No. 13-225, DA 13-1877 (Wireless Tel. Bur. Sept. 13, 2013) (“*Notice*”).

² *Notice* at 1 n.1. The DISH Request was filed by the DISH Network Corporation, on behalf of its wholly-owned subsidiaries, Gamma Acquisition L.L.C. and New DBSD Satellite Services G.P. (collectively, “DISH”). *Notice* at 1.

³ Pursuant to Sections 1.3 and 1.925(b)(3)(i) of the Commission’s rules, DISH seeks a waiver of Section 27.5(j), which sets forth pairing requirements for AWS-4, and Section 27.53(h)(2)(ii), which imposes out-of-band emission limits for AWS-4 operations in the 2000-2020 MHz band, as well as other technical AWS-4 rules “to the extent required.” *See, e.g.*, DISH Request at 2 & n.2, 6 & n.11, 9-12. *See* 47 C.F.R. §§ 1.3, 27.5(j), 27.53(h)(2)(ii), 1.925(b)(3)(i).

⁴ Pursuant to Section 1.946(e) of the Commission’s rules, DISH requests a one-year extension of the final construction requirement set forth for AWS-4 licenses in Section 27.14(q). *See* 47 C.F.R. §§ 1.946(e), 27.14(q).

II. Granting the DISH Request Would Allow Flexible Spectrum Use and Thereby Promote Wireless Innovation, Investment, and Efficiency.

As the DISH Request aptly states, “[a]ffording spectrum licensees the maximum amount of flexibility – consistent with interference constraints – to determine the highest valued use of their spectrum has become a hallmark of Commission spectrum policy.”⁵ This flexible use approach has greatly promoted innovation, investment, and efficiency, making our Nation’s wireless market the most dynamic and robust in the world. Indeed, “[f]lexibility enables spectrum users to make fundamental choices about how they will use spectrum ..., taking into account market factors such as consumer demand, availability of technology, and competition. By leaving these choices to the spectrum user, this approach tends to lead to efficient and highly-valued spectrum uses.”⁶

Seeking rule waivers to allow use of the 2000-2020 MHz band for either uplink or downlink operations, the DISH Request falls squarely within the scope of the Commission’s highly successful flexible use policy.⁷ Thus, the Commission should grant the waivers sought.⁸

Part and parcel with allowing use of the 2000-2020 MHz band for either uplink or downlink operations, the Commission should also grant the requested one-year extension of the final build-out requirement for the applicable licenses. The DISH Request contends convincingly that such an extension is necessary for the network and device planning and updates required to address any use changes allowed.

⁵ DISH Request at 8.

⁶ DISH Request at 8-9 n.18 (quoting Commission’s 2002 Spectrum Policy Task Force).

⁷ AT&T notes that flexibility should be allowed, but only consistent with interference constraints.

⁸ DISH states that “[n]o waiver is necessary ... for AWS-4 operations in the 2180-2200 MHz band (DISH will operate downlinks in that spectrum)....” DISH Request at 5. AT&T agrees with DISH and believes that the 2180-2200 MHz band should continue to be limited to downlink use.

III. Conclusion

For the foregoing reasons, the Commission should grant the relief sought in the DISH Request: (i) waiver of certain technical rules to permit operational flexibility to use the lower AWS-4 block, 2000-2020 MHz, currently designated as an uplink band, for either uplink or downlink operations; and (ii) a one-year extension of the current seven-year final build-out requirement for each of DISH's AWS-4 licenses.

Respectfully submitted,

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